

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

NOV 08 2018

Clerk, U S District Court  
District Of Montana  
Billings

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BERNARD LAFAYETTE MILES,

Defendant.

CR 18-90-BLG-SPW

ORDER

Defendant Bernard Miles is charged by indictment with violating the Sex Offender Registration and Notification Act (SORNA). (Doc. 1). Before the Court is Miles' motion to dismiss the indictment. (Doc. 20).

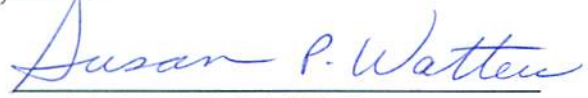
SORNA delegates authority to the Attorney General to prescribe rules determining the applicability of the registration requirements to persons convicted before SORNA's enactment. 34 U.S.C. § 20913(d). Under a rule promulgated by the Attorney General, persons convicted of sex offenses before SORNA's enactment are required register under SORNA. 28 C.F.R. § 72.3. SORNA was enacted in 2006. 34 U.S.C. § 20913. The United States Supreme Court recently heard oral arguments on the issue of whether Congress's delegation of authority to the Attorney General to issue regulations under SORNA violates the nondelegation doctrine. *Gundy v. United States*, No. 17-6086.

Miles was convicted in 1998 of carnal knowledge of a minor. (Doc. 21 at 2). The indictment alleges Miles failed to register from October 2015 until July 2018. (Doc. 1). Miles argues the indictment should be dismissed based on the same nondelegation argument raised in *Gundy*. (Doc. 20). Alternatively, Miles asks the Court to stay his case pending the decision in *Gundy*.

Under current precedent, Congress's delegation of authority to the Attorney General to issue regulations under SORNA does not violate the nondelegation doctrine. *United States v. Richardson*, 754 F.3d 1143, 1145-1146 (9th Cir. 2014). The motion to dismiss is therefore denied.

The Court declines to stay the case pending the Supreme Court's ruling in *Gundy* because doing so may violate the Speedy Trial Act. 18 U.S.C. § 3161(h) (listing periods which may be excluded from Act's 70-day time limit to commence trial after filing of indictment).

DATED this 8<sup>th</sup> day of November, 2018.

  
SUSAN P. WATTERS  
United States District Judge